



MEMORANDUM

TO: John Iurino
Zoning Examiner

DATE: May 8, 2019
For May 23, 2019 Hearing

FROM: Scott Clark
Planning & Development Services
Interim Director

SUBJECT: SPECIAL EXCEPTION LAND USE
PLANNING & AND DEVELOPMENT SERVICES REPORT
Mayor and Council Special Exception Procedure
SE-19-11 AT&T – Wilmot Road, RH (Rural Homestead) Zone (Ward 4)

Issue – This is a request by Steve Olson of Bechtel, on behalf of AT&T Mobility, for approval of a wireless communication facility (WCF). The special exception site is located approximately 100 feet east of Wilmot Road and 750 feet south of Old Vail Connection Road alignment (see Case Location Map). The parcel is vacant undeveloped land owned by the City of Tucson. The preliminary development plan (PDP) proposes a wireless communication tower (monopole) 100 feet in height, initially with three antennas, but with three sector frames that would allow the future installation of nine additional antennas. The applicant states that in addition to providing standard AT&T wireless services to the general public, the proposed facility is part of the FirstNet project, which is a contract awarded to AT&T by the federal government. In 2012 Congress created the First Net Authority, which is responsible for building a nationwide public safety broadband wireless network for first responders. The WCF will be placed within a 625 square foot (25-foot by 25-foot) lease area screened by a chain link fence with privacy slats in the western portion of a 114.9-acre inverted L-shaped parcel.

A communications use of this type in the RH zone is subject to Sections 4.9.13.O and 4.9.4.I.2, .3, and .7 of the *Unified Development Code (UDC)* and requires approval through a Mayor & Council Special Exception Procedure, Sec. 3.4.4, because the tower height exceeds 50 feet in the RH zone and because the tower does not meet a 2-times the height setback from RH (Rural Homestead residential) zoned property located immediately to the south of the proposed WCF. Documentation provided by the applicant indicates that no practical alternative exists. The tower and attachments will be a galvanized steel color.

The Mayor & Council Special Exception Procedure requires a public hearing before the Zoning Examiner after which the Zoning Examiner forwards a recommendation to the Mayor and

Council for a decision to grant the request with, or without, conditions or to deny the request. The Mayor and Council may also forward the request to the Design Review Board (DRB) for design review and recommendation.

Planning & Development Services Department Recommendation – The Planning & Development Services Department recommends approval of the special exception request, subject to the attached preliminary conditions.

Background Information

Existing Land Use: The site is vacant undeveloped land owned by the City of Tucson.

Zoning Descriptions:

RH (RURAL HOMESTEAD) – This zone provides for primarily low density residential property, with limited commercial and industrial uses to service residential development.

Surrounding Zones and Land Uses:

North: Zoned RH, RX-1; and I-2; Vacant, undeveloped

South: Zoned RH; City of Tucson Public Safety Academy

East: Zoned RH; Vacant, undeveloped

West: Zoned RH and Pima County RH; Vacant, and Arizona State Prison Facility

Previous Cases on the Property: None

Related Cases:

SE-17-172 T-Mobile - Drexel Road, R-2 Zone – This was a request for approval of a wireless communication facility tower (monopole) 80 feet in overall height, with associated equipment as a special exception land use in the R-2 zone. The special exception site is located 220 feet north of Drexel Road and 100 feet east of Nogales Hwy, just west of the Union Pacific Railroad tracks. On February 20, 2019, the Mayor and Council adopted Ordinance No. 11623, allowing the request.

SE-14-89 AT&T– 1st Avenue, C-1 Zone – This was a request for approval of a wireless communication facility with monopole constructed of corton steel in a brown rust color, 67 feet in height, and associated equipment as a special exception land use in the C-1 zone. The special exception site is located 500 feet east of 1st Avenue and 500 feet north of Limberlost Drive. On February 23, 2016, the Mayor and Council adopted Ordinance No. 11342, allowing the request.

Applicant's Request – The applicant requests special exception approval for the placement of a 100-foot high cellular communications monopole with associated equipment within a 625 square foot lease area on an undeveloped parcel owned by the City of Tucson.

Planning Considerations – Land use policy direction for this area is provided by *Plan Tucson (PT)*, which supports policy that utilizes the Future Growth Scenario Map as a guide for determining the general location of development opportunities, development patterns, land use and transportation concepts, while also considering area and site specific issues.

The project site is located in an area identified on the *PT* Future Growth Scenario Map as Southlands. Southlands is a long-term growth area, formed predominantly by large tracts of undeveloped land located at the southeastern and southern perimeters of the city. A large portion of this area is administered by the State Land Department. Prior to releasing these lands for development, the State will initiate planning efforts to promote orderly phased development that reflects sustainable and innovative community design. *PT* policy supports improving appearance of above-ground utilities and structures and extending access to wireless communication facilities throughout the city. *Plan Tucson* policies protect established neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses. Policy LT28.1.2 requires that wireless communication facilities be located, installed and maintained to minimize visual impacts and preserve views. Policy LT28.1.3 calls for improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communication facilities throughout the city.

The proposal is in general compliance with *Plan Tucson*, and does not require a plan amendment. The ground lease area is 25 feet by 25 feet with ground level equipment enclosed by an 8-foot high chain link security fence fitted with privacy slats, and with a vehicle access gate along its west side. AT&T will be required to enter into a lease agreement with the City of Tucson.

To the west is vacant land and a state prison facility zoned RH, to the south is the Tucson Public Safety Training Academy, zoned RH, and to the north and east is vacant land zoned RH.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – The proposed monopole will be designed to accommodate antennas for additional wireless carriers and government agencies. The tower will initially include one antenna per sector with three sector frames that will allow for the future installation of three additional antennas each for a total capacity of twelve antennas at the highest attachment centerline point of the monopole. Future colocations will be required to go through an administrative special exception review process. The applicant states that the monopole will be of galvanized steel with all antennas, mounts, and associated visible equipment painted to match pole color to minimize visual impacts.

The applicant has submitted photo-simulations of the monopole, which will be set back from Wilmot Road approximately 100 feet. The proposal is for a monopole rather than a stealth tree

design, because there are no existing tall trees nearby to provide context, and because it will facilitate collocation possibilities for other future wireless carriers. Coverage maps showing a gap in wireless coverage were also submitted with the special exception application materials. Staff acknowledges that the proposed WCF will help improve telecom services to the area.

There are no residential uses in the immediate area. The nearest residential developments are single-family homes and mobile homes, located over 1-1/2 miles to the northeast in City of Tucson R-1 zoning and Pima County TH zoning, over 1-1/2 miles to the northwest in Pima County SH zoning, and over 1-1/2 miles to the southwest in Pima Country RH zoning.

Existing vertical structures in the area consist of Tucson Electric Power poles at approximately 75 feet in height running along the east side of Wilmot Road. There are also nearby light poles at the Tucson Public Safety Academy to the south, a transmission tower and light poles at the state prison across Wilmot Road, and a number of other electrical transmission towers, including large (approximately 125-foot tall) TEP lattice towers running east-to-west adjacent to the Old Vail Road alignment approximately 750 feet to the north of the site, with electrical transmission lines extending across and through these towers. Other existing WCF's are more than two-and-a-half miles to the east and north. None of these sites satisfied AT&T's need to fill the coverage gap.

The monopole and ground equipment will be placed within a 625 square foot lease area to the north of the Tucson Public Safety Academy, on undeveloped City-owned property. Ground equipment will be housed inside cabinets within an area secured by slatted chain link fencing. The proposal includes a 54-gallon emergency backup diesel generator with a spill containment catch basin and a noise level of less than 66 dBA at 7 meters distance.

Road Improvements/Vehicular Access/Circulation – No road improvements are proposed as part of the project. Vehicular access to the WCF for maintenance will be from Wilmot Road, and is identified on the PDP as a 16-foot wide access easement leading to an access gate in the compound fence. According to the *Major Streets and Routes Plan*, Wilmot Road is an arterial street with a 150-foot right-of-way.

Federal Regulations – Because this Special Exception application involves a request for a wireless communication facility, the Zoning Examiner's consideration of the application is impacted by the application of federal laws specific to wireless communications. While federal law does not entirely preempt local decision-making authority based on legitimate zoning requirements, such as community aesthetics and compliance with stealthing requirements, it does impose the following limitations:

- 1) The decision on the application must occur within the "shot clock" period as provided under federal law, which for this type of application is 150 days. In this case, the application was accepted on April 11, 2019 and the "shot clock" period will expire on September 8, 2019. If a decision is not rendered within the "shot clock" period, the review and consideration process is presumed to be unreasonable and affords the

applicant the opportunity to file a lawsuit. If sued, the City would need to prove that it acted “reasonably” when it failed to act within the established “shot clock” period.

- 2) The evaluation of the request cannot include consideration of potential environmental or health effects of radio-frequency (RF) emissions where, as here, the facility will comply with FCC regulations and standard on such emissions.
- 3) The decision on the application cannot unreasonably discriminate among providers of functionally equivalent services. A denial may be deemed to be “unreasonable discrimination” if the facility is designed and situated similarly to other previously approved facilities and is no more intrusive than those previously facilities.
- 4) The decision may not have the effect of prohibiting the provision of wireless services, or of causing a significant gap in the applying provider’s coverage. In this context, the relevant issues are: (1) whether the applicant has shown a significant gap in service coverage; and (2) whether the proposal to fill this gap is the least intrusive means of doing so, or whether there are alternative sites that would fill the gap.
- 5) In the event of a denial, that decision and its reasons must be delivered to the applicant in writing, and must be supported by substantial evidence.

Given these constraints, the Zoning Examiner’s recommendation on this application should focus on whether the applicant has demonstrated a significant coverage gap; whether that gap could be addressed through an installation at an alternative site; and whether the proposed concealment/stealth measures are sufficient to meet the City’s requirements. The Zoning Examiner should also consider how this application compares to other prior applications for similar facilities. In the event of a recommendation for denial, the reasons must be stated so they can be incorporated into a written decision and captured in the meeting minutes.

Use-Specific Standards – The applicant’s proposal requires approval as a Mayor and Council Special Exception and must meet the Use-Specific Standards of *UDC* Sections 4.9.13.O and 4.9.4.I.2, .3, and .7. Below is an analysis of the performance criteria:

4.9.4.I.7 The following requires approval as a special exception in accordance with Section 3.4.4, *Mayor and Council Special Exception Procedure*. The Mayor and Council may forward to the Design Review Board (DRB) for design review and recommendation.

a. Wireless communication antennas, provided:

- (1) The tower or antennas are not permitted by other provisions of this Section.

The 100-foot monopole in the RH zone does not conform to any other section of the code because it exceeds 50 feet in height and because the tower height does not meet a 2-to-1 setback from RH zoned property located to the south of the site.

- (2) New towers require a minimum separation of one mile from any existing tower, regardless of ownership, unless documentation establishes that no practical alternative exists.

The nearest existing wireless communications facilities (WCFs) are over 2-1/2 miles to the east of the proposed site at a Tucson Electric Power transfer station and to the north adjacent to Interstate-10. Other nearby verticality was investigated but none meet the requirements of AT&T's network. The search ring to resolve the coverage gap has a radius of approximately 0.5 miles.

- (3) All appropriate measures shall be taken to conceal or disguise the tower and antennas from external view.

The monopole will be designed in galvanized steel with all antennas, mounts and associated tower equipment painted to match pole color. For this section of the UDC, painting is considered a method of concealing a tower.

- (4) All appropriate measures shall be taken to reduce the negative proliferation of visible towers and antennae by the collocation of new antennae on existing towers or with the facilities of other providers which are located or planned for development within the proposed service area.

The nearest existing WCF's are approximately 2-1/2 miles away from the site. The search ring to resolve the coverage gap has a radius of 0.5 miles.

- (5) Notice shall be provided to all agents designated at least 15 days prior to the date of the public hearing before the Zoning Examiner.

All policies of the Mayor and Council Special Exception Process shall be followed accordingly.

Staff finds the proposal to be in compliance with the UDC Use-Specific Standards.

Conclusion – The proposal is in compliance with the performance criteria for a wireless communication facility. The special exception request is consistent with policy direction in *Plan Tucson*, which supports development designed to be compatible with and sensitive to surrounding land uses. There is currently no residential development in the vicinity of the site. Subject to compliance with the attached preliminary conditions, approval of the requested special exception is appropriate.

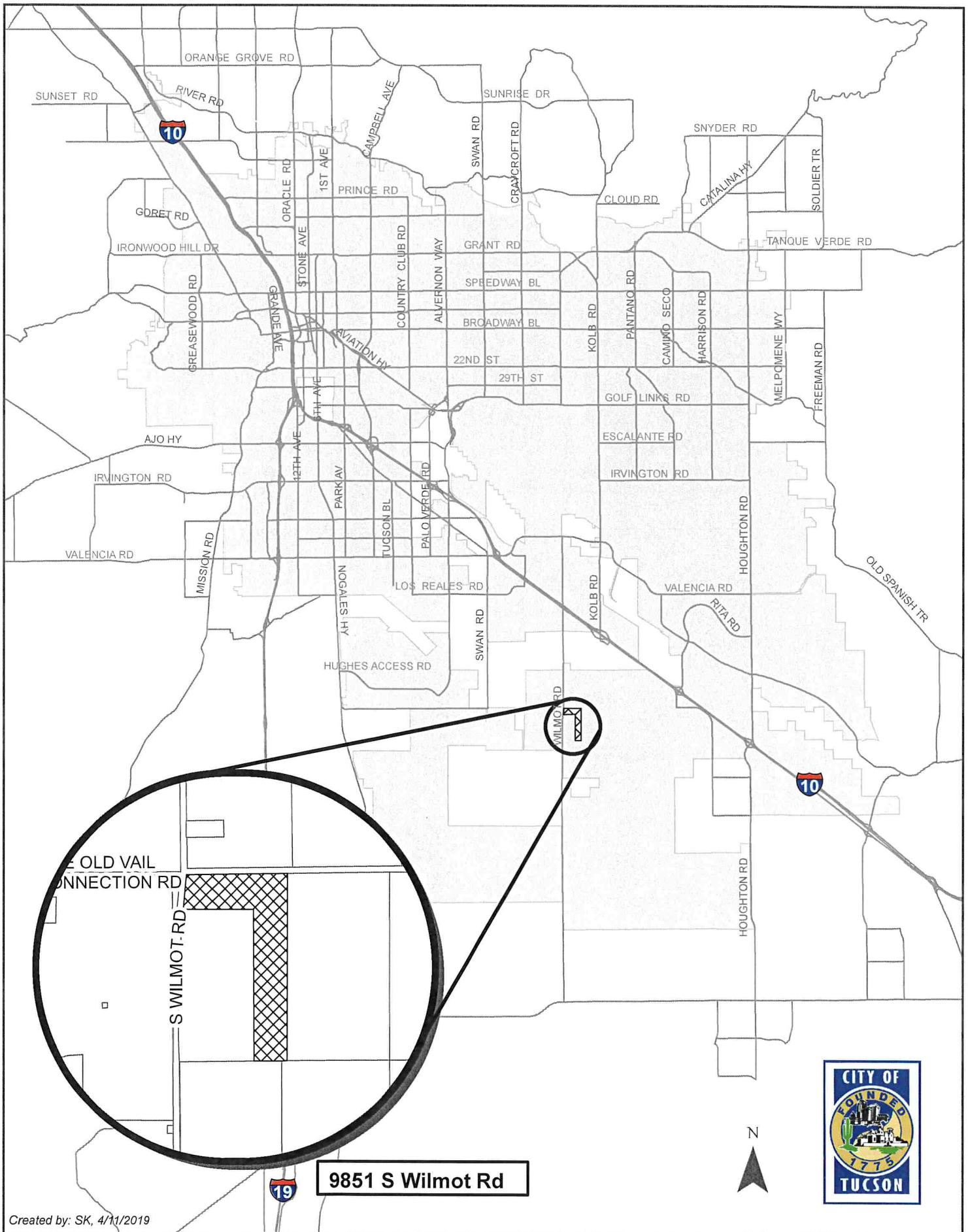
PROCEDURAL

1. A site plan in substantial compliance with the preliminary development plan dated April 2, 2019, is to be submitted and approved in accordance with *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Special Exception Land Use".
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception land use.
6. A copy of the Special Exception decision letter shall be included with the site plan at the time of permit application submittal.
7. Future colocations must be approved through separate special exception process.
8. According to the FAA Notice Criteria Tool, this project is located in proximity to a navigation facility and could impact navigation signal reception. The applicant shall file Form 7460 with the FAA at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> at least 45 days before construction activities begin in order to allow sufficient time to respond to any concerns which are identified by the FAA. Any cranes used which are used must also be identified with Form 7460.

LAND USE COMPATABILITY / CONCEALMENT MEASURES

9. The wireless communication monopole shall not exceed one hundred and two (102) feet in height from grade elevation.
10. Antennas and other visible ancillary equipment on the monopole shall be painted or finished to match as closely as possible the galvanized steel color of monopole.
11. Ground equipment to be located within lease area as depicted on the preliminary development plan dated April 2, 2019.

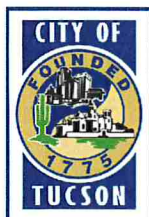
SE-19-11
AT&T- S. Wilmot Road



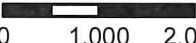
SE-19-11
AT&T - S. Wilmot Road



 Area of Special Exception Request

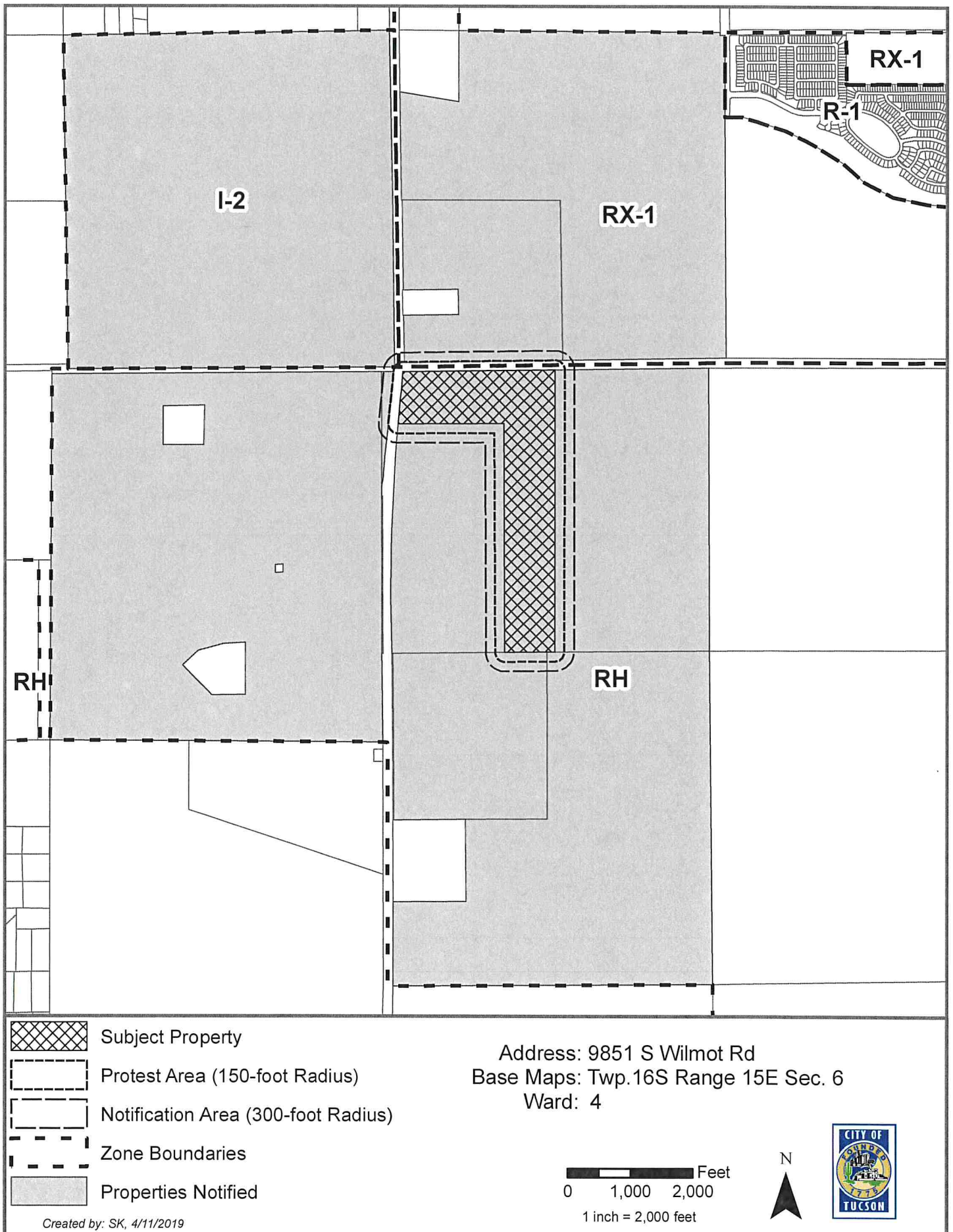


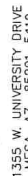
Address: 9851 S Wilmot Rd
Base Maps: Twp.16S Range 15E Sec. 6
Ward: 4


0 1,000 2,000 Feet
1 inch = 2,000 feet



SE-19-11
AT&T - S. Wilmot Road





THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO AT&T WIRELESS. ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES

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**BECHTEL INFRASTRUCTURE
AND POWER CORPORATION**
2601 S. 37TH STREET, SUITE 200
PHOENIX, AZ 85034
PHONE: (602) 282-3050



Clear Blue
Services

PROJECT: NEW SITE BUILD
SITE NO.: AZL01029
SITE NAME: TUCSON PUBLIC
SAFETY ACADEMY
FA CODE: 14615729
USID: 223017
9851 S. WILMOT RD.
TUCSON, AZ 85756

[illegible]

PROFESSIONAL SEAL



THIS DOCUMENT CONTAINS AN ELECTRONIC
SIGNATURE AND IS A NOTIFICATION FOR IT
AND TITLE 44, IT IS A VIOLATION FOR
ANY PERSON, UNLESS UNDER THE DIRECT
SUPERVISION OF THE REGISTRAR, TO
MODIFY THIS DOCUMENT IN ANY WAY.

REGISTERED ARCHITECT
CERTIFICATE NO.
32674
STEVEN L. WINE
CLARENCE
210 Grand
491

PRELIMINARY UNLESS NOTED

6112-07-6 SHAG

1

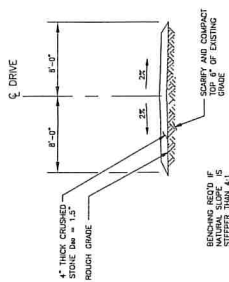
ENLARGED SITE
PLAN

SHEET NUMBER =

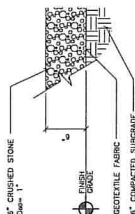
A-2

ENLARGED SITE SITE PLAN

Special Exception
Preliminary Development Plan
S.E. - 19-11 Date 4/2/19
Planning & Development Services



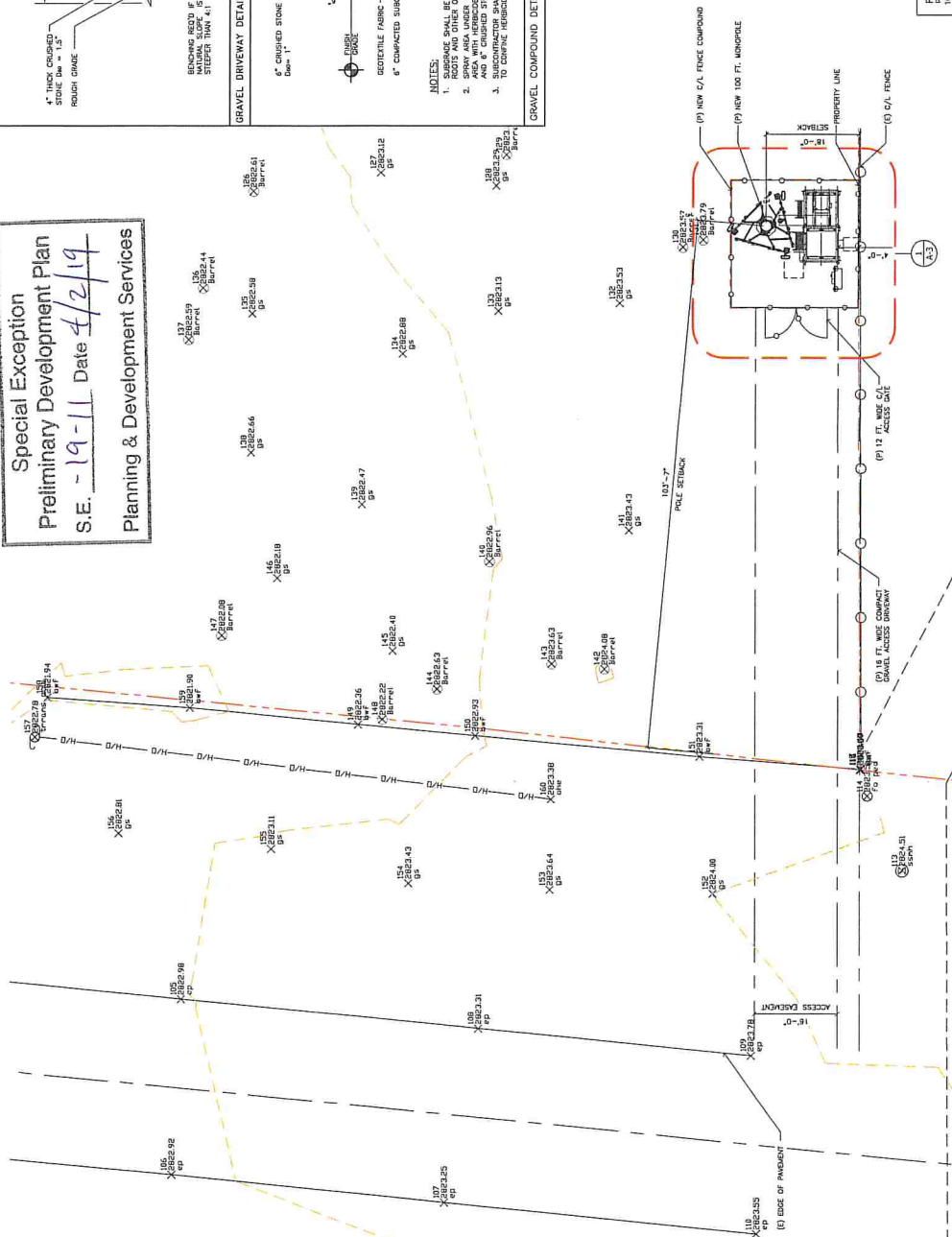
GRAVEL DRIVEWAY DETAIL	NTS
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NOTES:

1. SUBGRADE SHALL BE CLEAN AND FREE OF ROCKS, ROOTS AND OTHER ORGANIC MATERIAL.
2. SPRAY AREA UNDER BUILDING & NEW CRUSHED STONE AREA WITH HERBICIDE, COVER W/ GEOTEXTILE FABRIC AND 6" CRUSHED STONE.
3. SUBCONTRACTOR SHALL TAKE NECESSARY PRECAUTIONS TO CONFINE HERBICIDE TO THE FENCED PROJECT AREA.

GRAVEL COMPOUND DETAIL	NT-5.	2
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Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning & Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing.

Approvals and protests must have an owner's signature to be recorded.

Case **SE-19-11 AT&T – Wilmot Road Ward #4**

RH Zone The proposal is for a wireless communication tower (monopole) 100 feet in height, with and associated ground equipment. The project site is located approximately 100 feet east of Wilmot Road and 750 feet south of Old Vail Connection Road alignment.

I/We the undersigned property owners, wish to

- ☐ APPROVE the proposed rezoning.
☐ PROTEST the proposed rezoning.

Reason:

PLEASE PRINT YOUR NAME	PLEASE PRINT MAILING ADDRESS	PLEASE PRINT LEGAL PROPERTY DESCRIPTION		
		Subdivision	Block	Lot

Owner's Signature: _____ Date _____

Place
Stamp
Here

City of Tucson
Planning & Development Services
201 N. Stone
P.O. Box 27210
Tucson, Arizona 85726-7210

SE-19-11

Expose this flap - Affix stamp and return



City of Tucson PMc
Planning & Development Services
Rezoning Section
201 N. Stone Avenue
P.O. BOX 27210
Tucson, Arizona 85726-7210

SE-19-11
IMPORTANT SPECIAL EXCEPTION NOTICE ENCLOSED